

(ii) If any such data are revised by the owners and operators of a TR SO₂ Group 1 source and TR SO₂ Group 1 unit whose designated representative submitted such data under paragraph (b)(2)(i) of this section, as a result of a decision in or settlement of litigation concerning such submission, then the Administrator will use the data as so revised to recalculate the amounts of TR SO₂ Group 1 allowances that owners and operators are required to hold in accordance with the calculation formula in § 97.606(c)(2)(i) for such control period with regard to the TR SO₂ Group 1 sources, TR SO₂ Group 1 units, and State (and Indian country within the borders of such State) involved, provided that such litigation was initiated no later than 30 days after promulgation of such notice required in paragraph (b)(2)(iii)(B) of this section.

(iii) If the revised data are used to recalculate, in accordance with paragraphs (b)(6)(i) and (ii) of this section, the amount of TR SO₂ Group 1 allowances that the owners and operators are required to hold for such control period with regard to the TR SO₂ Group 1 sources, TR SO₂ Group 1 units, and State (and Indian country within the borders of such State) involved—

(A) Where the amount of TR SO₂ Group 1 allowances that the owners and operators are required to hold increases as a result of the use of all such revised data, the Administrator will establish a new, reasonable deadline on which the owners and operators shall hold the additional amount of TR SO₂ Group 1 allowances in the assurance account established by the Administrator for the appropriate TR SO₂ Group 1 sources, TR SO₂ Group 1 units, and State (and Indian country within the borders of such State) under paragraph (b)(3) of this section. The owners' and operators' failure to hold such additional amount, as required, before the new deadline shall not be a violation of the Clean Air Act. The owners' and operators' failure to hold such additional amount, as required, as of the new deadline shall be a violation of the Clean Air Act. Each TR SO₂ Group 1 allowance that the owners and operators fail to hold as required as of the new deadline, and each day in such control

period, shall be a separate violation of the Clean Air Act.

(B) For the owners and operators for which the amount of TR SO₂ Group 1 allowances required to be held decreases as a result of the use of all such revised data, the Administrator will record, in all accounts from which TR SO₂ Group 1 allowances were transferred by such owners and operators for such control period to the assurance account established by the Administrator for the appropriate TR SO₂ Group 1 sources, TR SO₂ Group 1 units, and State (and Indian country within the borders of such State) under paragraph (b)(3) of this section, a total amount of the TR SO₂ Group 1 allowances held in such assurance account equal to the amount of the decrease. If TR SO₂ Group 1 allowances were transferred to such assurance account from more than one account, the amount of TR SO₂ Group 1 allowances recorded in each such transferor account will be in proportion to the percentage of the total amount of TR SO₂ Group 1 allowances transferred to such assurance account for such control period from such transferor account.

(C) Each TR SO₂ Group 1 allowance held under paragraph (b)(6)(iii)(A) of this section as a result of recalculation of requirements under the TR SO₂ Group 1 assurance provisions for such control period must be a TR SO₂ Group 1 allowance allocated for a control period in a year before or the year immediately following, or in the same year as, the year of such control period.

[76 FR 48432, Aug. 8, 2011, as amended at 77 FR 10340, Feb. 21, 2012]

§ 97.626 Banking.

(a) A TR SO₂ Group 1 allowance may be banked for future use or transfer in a compliance account or a general account in accordance with paragraph (b) of this section.

(b) Any TR SO₂ Group 1 allowance that is held in a compliance account or a general account will remain in such account unless and until the TR SO₂ Group 1 allowance is deducted or transferred under § 97.611(c), § 97.623, § 97.624, § 97.625, § 97.627, or § 97.628.